

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 - EXPEDITED PROCEDURE

Serial Number: 09/663,485

Filing Date: September 13, 2000

Title: SYSTEM AND METHOD FOR MANAGING AND PROVISIONING VIRTUAL ROUTERS

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REMARKS

This responds to the Office Action mailed on May 14, 2004.

Claim 1 is amended, no claims are canceled or added; as a result, claims 1-18 remain pending in this application.

Information Disclosure Statement

Applicant respectfully requests that a copy of the 1449 Form, listing all references that were submitted with the Information Disclosure Statement filed on May 17, 2002, marked as being considered and initialed by the Examiner, be returned with the next official communication.

§102 Rejection of the Claims

Claims 15-18 were rejected under 35 USC § 102(e) as being anticipated by Reichmeyer (U.S. Patent No. 6,286,038). Applicant respectfully traverses the rejection. Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). Applicant respectfully submits that the Office Action did not make out a *prima facie* case of anticipation because the claims contain elements not found in cited references.

For example, claim 15 recites "generating a configuration for the set of virtual routers." The preamble of claim 15 and the specification both make clear that the virtual routers are created on a switch. Applicant has reviewed Reichmeyer, including performing a computerized text search, and can find no reference to virtual routers that are created on a switch. Reichmeyer teaches aspects of configuring a network device. There is no teaching or disclosure in Reichmeyer of configuring a virtual router created within a switch. As a result, Reichmeyer fails

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to teach or disclose each and every element of Applicant's claim 15. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 15.

Claims 16-18 depend from claim 15 and therefore inherit the elements of claim 15, including the recitation of virtual routers. Claims 16-18 are therefore allowable for the same reasons as discussed above with respect to claim 15. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 16-18.

§103 Rejection of the Claims

Claims 1-14 were rejected under 35 USC § 103(a) as being unpatentable over Dobbins (U.S. Patent No. 5,825,772) in view of Reichmeyer. In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)). Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest all of the claim limitations.

For example, claim 1 as amended recites "allocating a subset of the set of processing resources to a virtual router created within the switch." Applicant has reviewed Dobbins, including performing a computerized text search, and can find no teaching or suggestion of a virtual router. Dobbins does teach a distributed switching environment that includes virtual local area networks (VLANs), however, a VLAN is different from a virtual router. Further, the distributed physical switches described in Dobbins are different from the virtual routers allocated in a single switch as recited in Applicant's claim 1. As a result, Dobbins does not teach or suggest allocating a subset of processing resources to a virtual router created within a switch. Additionally, as discussed above, Reichmeyer fails to teach or suggest a virtual router.

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Therefore, neither Dobbins nor Reichmeyer, alone or in combination, teach or suggest all of the elements recited in Applicant's claim 1. Thus a prima facie case of obviousness does not exist with respect to claim 1. Applicant respectfully requests the withdrawal of the rejection of claim 1.

Claims 2-14 depend either directly or indirectly for claim 1, and add further patentable distinctions. These dependent claims are therefore non-obvious for the same reasons as discussed above with respect to claim 1. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 2-14.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date November 15, 2004By Rodney L. Lacy

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I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below

Rodney L. Lacy

November 15, 2004
Date of Transmission